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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Diaz et al.	)	Group Art Unit: 2161
			)	
Appl. No.	:	09/821,371	)	
			)	
Issued	:	March 29, 2001	)	
			)	
For	:	PERSONALIZED HAND HELD CALORIE COMPUTER	)	
			)	
Examiner	:	Cosimano, Edward R.		

RECEIVED  
OCT 21 2002  
GROUP 3600

SECOND SUPPLEMENTAL DECLARATION FOR REISSUE  
APPLICATION UNDER (37 C.F.R. § 1.175 )

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

We, the undersigned inventors, hereby declare that:

1. Our residence, Post Office address and citizenship are stated below next to our names.

2. We believe that we are the original, first and joint inventors of the subject matter described and claimed in U.S. Patent No. 5,890,128 (hereinafter "the '128 patent"), issued March 30, 1999, and the subject matter disclosed in the above-identified reissue application. We have reviewed and understand the contents of the above-identified reissue application and the Amendment filed concurrent with the filing of this Declaration.

2. We acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

3. We believe that the '128 patent is partially inoperable because it claims less than we had a right to claim. Specifically, independent Claims 1 and 15 recite several limitations, which unnecessarily limit the scope of our claimed invention. For example, Claims 1 and 15 recite "a

**Reissue of Patent No.: 5,890,128**  
**Second Supplemental Declaration**

standard electronic computer circuit contained within said computer case, said circuit containing at least a random access memory, a read only memory, a processor and a coprocessor", "a keyboard positioned on said computer case comprising a plurality of standard keyboard buttons including alphabetical characters, numerical characters, predetermined punctuation marks, predetermined mathematical functions, space function, and shift function", and a "liquid crystal display". Such limitations were not used during prosecution to distinguish Applicants' invention over the cited art.

Independent Claim 16 and dependent Claims 19-28, 30-39 correct the above noted errors in the original claims. For example, instead of reciting "a circuit containing at least a random access memory, a read only memory, a processor and a coprocessor and a liquid crystal display", Claim 16 recites a computer processor operatively coupled to a memory, a user interface and a display.

In a similar manner, (i) independent Claim 36 and dependent Claims 56-74, (ii) independent Claim 40 and dependent Claims 43-48 and 50-54, and (iii) Claim 55 and dependent Claims 75-85; and Claim 86 eliminate limitations which unnecessarily limit the scope of our claimed invention and were not used during prosecution to distinguish Applicants' invention.

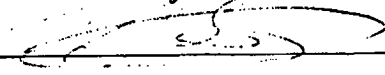
4. We believe that the '128 patent is partially inoperable because, under 35 U.S.C. 112, second paragraph, original Claims 1-6 and 8 fail to particularly point out and distinctly claim the subject matter which Applicants regards as the invention. For example, Claims 3-6 and Claim 8 make reference to "claim 1" throughout the body portion of the claim. In addition, "predetermined said user personal data" lacks antecedent basis in original Claims 3-6 and 8. These and additional antecedent informalities are corrected by the amendments made to Claims 1-6 and 8.

5. Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without deceptive intention on the part of applicant.

6. We have read and understand the foregoing statements of this Declaration. We declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or patent issuing information.

**Reissue of Patent No.: 5,890,128**  
**Second Supplemental Declaration**

Full name of first inventor: **H. Benjamin Diaz**

Inventor's signature 

Date 10/8/02

Residence: P.O. Box 294, Brea, Ca 92622

Citizenship: **United States**

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Full name of second inventor: **M. Inez Genera**

Inventor's signature 

Date 10/8/2002

Residence: P.O. Box 294, Brea, Ca 92622

Citizenship: **United States**

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